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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,335	06/04/2001	Hikmat Hojeibane	JJI-52	8853

27777 7590 10/01/2004  
PHILIP S. JOHNSON  
JOHNSON & JOHNSON  
ONE JOHNSON & JOHNSON PLAZA  
NEW BRUNSWICK, NJ 08933-7003

EXAMINER
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JACKSON, SUZETTE JAMIE

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/874,335

Applicant(s)

HOJEIBANE, HIKMAT

Examiner

Suzette J. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-22 and 29 is/are allowed.
- 6) ☒ Claim(s) 23-28 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Applicant's RCE dated 9/10/04 has been received in application serial number 09/874,335. Claims 1-18 have been canceled.

### *Priority*

2. The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application); the disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994). The current application serial number **09/874,335** claims the features of **welds** and a **ball and socket arrangement**. These limitations only have support dated back to the parent application serial number **09/256,914** filed **2/24/99**, therefore the priority will date back to 2/24/99 for these limitations.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 30 is rejected under 35 U.S.C. 102(e) as being anticipated by Wisselink 6,428,565. Wisselink discloses the invention as claimed comprising: A proximal tubular section with struts (12, 18); a first distal tubular section with struts connected to the proximal section by connector members (42, 48); a second distal tubular section having struts (18); wherein the proximal ends of the distal members are connected.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richter et al. 5,755,734. Richter et al. discloses the invention as claimed comprising: A stent with a first and second cylindrical forms, wherein the second form is placed alongside a wall portion of the first form thereby forming a connector thereat so that the stent forms a "Y" shape opening through the interior portion of the stent without

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overlapping and wherein the stent has a welded connection at the connection between the first and second forms and while Richter et al. does teach the technique of spot welding (see col. 4, lines 1-45), the weld of Richter is not around the entire circumference of the second cylindrical form. It would have been obvious to one having ordinary skill in the art at the time the invention was made to weld the entire circumference of the second cylindrical form in order to further secure the separate distal portions to the main portion and is merely a design choice.

***Allowable Subject Matter***

7. Claims 19-21 and 29 are allowed.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Duffy et al. 6,086,611 ; Borghi 6,033,434 ; Marcade et al. 5,993,481 ; Robinson et al. 5,860,998 ; Shaknovich 5,669,924 all show related material.

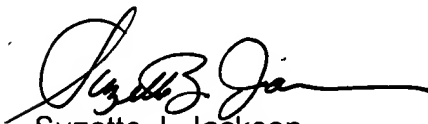
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzette J. Jackson whose work schedule is Monday-Friday 9-6:30 off every other Friday and whose telephone number is 703-308-6516.

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10. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

11. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-

0858.

A handwritten signature in black ink, appearing to read 'Suzette J. Jackson', with a long horizontal flourish extending to the right.

Suzette J. Jackson  
28 September 2004